



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GPM OIL, LLC
FOR
CENTER CROSS TEXACO (Facility ID No. 4019837) &
DUNNSVILLE SUNOCO (Facility ID No. 4019815)**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and GPM Oil, LLC, for the purpose of resolving certain violations of the State Water Control Law and the applicable Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facilities" means the following physical locations where the UST and/or UST system is installed and/or operated:
 - a. "Center Cross," known as Center Cross Texaco, located at 31862 Tidewater Trail in Essex County, Virginia. The Facility's UST and/or UST system are owned by GPM Oil, LLC, and the Facility is further identified by UST Facility ID# 4019837; and
 - b. "Dunnsville," known as Dunnsville Sunoco, located at 26959 Tidewater Trail in Essex County, Virginia. The Facility's UST and/or UST system are owned by GPM Oil, LLC, and the Facility is further identified by UST Facility ID# 4019815.
5. "Financial Responsibility" means the ability to demonstrate that one has the financial resources available to pay for the costs of containment and cleanup and third party lawsuits in the event of a release from an UST or UST system in accordance with 9 VAC 25-590-40, -50.
6. "Form 7530-2" and "Form 7530-3" means the Notification for Underground Storage Tanks form used by DEQ to register and track USTs for proper operation, closure and ownership, in accordance with 9 VAC 25-580-70.
7. "GPM" means GPM Oil, LLC, a limited liability company, authorized to do business in Virginia and its affiliates, partners, and subsidiaries. GPM is a "person" who owns the Facilities.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Operator" means any person in control of, or having responsibility for, the daily operation of the UST system as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
11. "Owner" means any person who owns an UST system used for storage, use, or dispensing of regulated substances as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
12. "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

13. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
14. "Regulated Substance" means an element, compound, mixture, solution or substance that, when released into the environment, may present substantial danger to the public health or welfare, or the environment, as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
15. "Regulations" means the Underground Storage Tanks: Technical Standards and Corrective Action Requirements, 9 VAC 25-580-10 *et seq.* and the Petroleum Underground Storage Tank Financial Responsibility Requirements, 9 VAC 25-590-10 *et seq.*
16. "Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.
17. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 9 (Va. Code §§ 62.1-44.34:8 through 62.1-44.34:9) of the State Water Control Law addresses Storage Tanks.
18. "Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground as defined in Va. Code § 62.1-44.34:8 and 9 VAC 25-580-10.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. GPM is the owner of the Facilities. GPM stores a regulated substance in the form of gasoline, kerosene, and diesel in USTs at the Facilities.
2. At all times relevant to this Order, there were four USTs at Center Cross: one 10,000 gallon gasoline UST ("T #1"); one 6,000 gallon gasoline UST ("T #2"); one 6,000 gallon diesel UST ("T #3C"); and one 4,000 gallon kerosene UST ("T #4C")¹. Jaidip Patel ("Mr. Patel") is the current operator of Center Cross.

¹ T #4C was placed in temporary closure on January 27, 2020.

3. At all times relevant to this Order, there were two 10,000 gallon gasoline USTs at Dunnsville. Ranbir Singh ("Mr. Singh") is the operator of Dunnsville.

Violations Common to the Center Cross and Dunnsville Facilities

4. On August 4, 2014, Department staff from the Office of Financial Responsibility and Waste Programs conducted a file review to evaluate GPM's compliance with the requirements of the State Water Control Law and the Regulations based on GPM's USTs at Center Cross and Dunnsville. DEQ staff observed the following:
 - a. Financial responsibility had not been demonstrated based on review of the current documentation on file with DEQ.
5. 9 VAC 25-590-40(A) requires that, "Owners or operators of petroleum underground storage tanks shall demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks . . ."
6. 9 VAC 25-590-50 requires that an owner or operator demonstrate financial responsibility using either self-insurance under limited circumstances or a mechanism or a combination of mechanisms listed in 9 VAC 25-590-60 through -110.
7. DEQ staff sent a Deficiency Letter on August 5, 2014 and Warning Letters on January 23, 2015 (No. 15-01-CO-002) and March 12, 2019 (No. 19-03-CO-014) for the violations listed in Paragraph 4(a), above. The Warning Letters requested that GPM respond in writing within twenty (20) days. GPM did not respond to either Warning Letter within the requested time. No NOV was issued based on the observation described above. The violations were, however, referred for enforcement to be consolidated with those violations listed in the Notice of Violation No. TPRO263056 described below.
8. On July 17, 2020, DEQ staff met by phone with the owners of GPM, Mr. Patel, and Mr. Singh and discussed the violations listed in Paragraph 4(a). At that time, GPM, Mr. Patel, and Mr. Singh informed DEQ that Mr. Patel and Mr. Singh were in the process of securing financial assurance mechanisms for their respective facility in order to meet GPM's financial responsibility requirements.
9. On August 11, 2020, GPM came into compliance with its financial responsibility requirements.

Violations at the Center Cross Facility

10. On April 10, 2019, Department staff from PRO's Petroleum Program inspected Center Cross to evaluate GPM's compliance with the requirements of the State Water Control Law and the Regulations. At the time of inspection, Aaditya Shah was the facility's operator. DEQ staff observed, in relevant part, the following:

- a. Tank release detection records for T #1, T #2, T #3C, T #4C records were not provided.
 - b. T #4C was temporarily closed, but no Form 7530-2 was provided.
 - c. No current list of Class C Operators for the facility was provided.
11. 9 VAC 25-580-130.A requires that, "Owners and operators must provide a method, or combination of methods, of release detection that: 1. can detect a release from any portion of the tank and the connected underground piping that routinely contains product . . ."
12. 9 VAC 25-580-140 requires that, "Owners and operators of petroleum UST systems must provide release detection for tanks and piping as follows: 1. . . Tanks must be monitored for releases as follows: a. Tanks installed before September 15, 2010, must be monitored for releases at least every 30 days . . . using one of the methods listed in subdivisions 4 through 9 of 9VAC25-580-160 . . ."
13. 9 VAC 25-580-180 requires that "owners and operators must maintain records in accordance with 9 VAC 25-580-120 demonstrating compliance with all applicable requirements of this part. These records must include the following: . . . 2. The results of any sampling, testing, or monitoring must be maintained for at least one year, or for another reasonable period of time determined by the board . . ."
14. 9 VAC 25-580-120 requires that owners and operators maintain "documentation of compliance with release detection requirements" and that they "keep the records required either: a. At the UST site and immediately available for inspection by the board; or b. At a readily available alternative site and be provided for inspection to the board upon request."
15. 9 VAC 25-580-70(B) requires that "[a]ny change in ownership, tank status, tank/piping systems, or substance stored requires the UST owner to submit an amended notification form, or other documentation approved by the board, within 30 days after such change or upgrade occurs or is brought into use."
16. 9 VAC 25-580-120.2.h. requires owners and operators to maintain "[d]ocumentation of operator training required by 9VAC25-580-125, including verification of training for current Class A, Class B, and Class C operators, and current list of operators and written instructions or procedures for Class C operators (9VAC25-580-125)."
17. DEQ staff sent a Request for Compliance Action on April 26, 2019 and a Warning Letter on August 26, 2019 for items (a)-(c) of Paragraph 10 above.
18. On December 20, 2019, DEQ staff spoke with the operator of Center Cross at that time, Yassen Mulflahi ("Mr. Mulflahi"). Mr. Mulflahi stated that the automatic tank gauging

("ATG") system was broken and that he was unable to provide more than a couple days' worth of release detection records. No tank release detection records were provided at that time.

19. On April 15, 2020, the Department issued Notice of Violation No. TPRO263056 ("NOV") to GPM for violations listed in Paragraphs 10(a)-(c) above, requesting a response within thirty (30) days.
20. Having received no response, DEQ staff contacted GPM on May 29, 2020, and briefly discussed the violations with one of GPM's owners. On June 25, 2020, DEQ staff met by phone with the owners of GPM, Larry Park and Samuel Yu, as well as Mr. Patel to discuss the violations.
21. During that meeting, GPM informed DEQ staff that Mr. Patel was a new operator for Center Cross, taking over operations in April of 2020. DEQ staff requested updated Operator Training Certificates and Class C Operator documentation. On July 8, 2020, DEQ staff received Class A, B, and C Operator Training Certificates and documentation for Mr. Patel. The date of completion on all certificates was July 6, 2020.
22. 9 VAC 25-580-125.D.2. requires that "[w]hen a Class A or Class B operator is replaced after August 8, 2012, a new operator shall be trained within 60 days of assuming duties for that class of operator." 9 VAC 25-580-125.D.3. requires that "Class C operators shall be trained before assuming duties of a Class C operator."
23. Through discussions with GPM, DEQ determined that a Form 7530-3 was filed for T #4C, placing the tank in temporary closure, and a list of Class C operators was submitted in January of 2020. Upon review of the Form 7530-3 submitted, DEQ staff determined that the form was submitted within thirty (30) days of the change in status of T #4C.
24. On June 1, 2020, Mr. Patel submitted release detection records from Center Cross's automatic tank gauging system. The records showed passing results for all tanks from tests conducted approximately 30 days apart from December of 2019 to June of 2020. No release detection records showing test results prior to December 31, 2019 have been provided or made available for review.
25. Though subsequent investigation has revealed that Center Cross now employs a functioning ATG system for tank release detection for all of its USTs, for a period of time prior to December 31, 2019 GPM failed to conduct tank release detection when its ATG system was not working properly.

Conclusion

26. Based on the results of the June 25, 2020 meeting, the documentation submitted on July 8, 2020, and the July 17, 2020 meeting the Board concludes that GPM has violated 9 VAC 25-580-130.A, 9 VAC 25-580-140, 9 VAC 25-580-180, 9 VAC 25-580-120, 9

VAC 25-580-125.D., 9 VAC 25-590-50, and 9 VAC 25-590-40(A) as described in the above paragraphs.

27. GPM has completed all corrective action.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders GPM, and GPM agrees to:

1. Pay a civil charge of \$10,410.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

GPM shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, GPM shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of GPM for good cause shown by GPM, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, NOV No. TPRO263056 dated April 15, 2020, Warning Letter No. 15-01-CO-002 dated January 23, 2015, and Warning Letter No. 19-03-CO-014 dated March 12, 2019. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, GPM admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. GPM consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. GPM declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by GPM to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. GPM shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. GPM shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. GPM shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and GPM. Nevertheless, GPM agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
- a. The Director or his designee terminates the Order after GPM has completed all of the requirements of the Order;
 - b. GPM petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to GPM.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve GPM from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by GPM and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of GPM certifies that he or she is a responsible official, member, or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind GPM to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of GPM.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, GPM voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2020.

James J. Golden, Regional Director
Department of Environmental Quality

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GPM Oil, LLC voluntarily agrees to the issuance of this Order.

Date: 10/9/2020 By: [Signature], manager
(Person) (Title)
GPM Oil, LLC

Commonwealth of Virginia

City/County of FAIRFAX

The foregoing document was signed and acknowledged before me this 9th day of
October, 2020, by LAURENCE PARK who is
Manager of GPM Oil, LLC, on behalf of the company.

[Signature]
Notary Public

7815293
Registration No.

My commission expires: November 30, 2023

Notary seal:

TILOTTOMA BARUA
NOTARY PUBLIC
COMMISSION NUMBER 7815293
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES NOVEMBER 30, 2023